

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DAMON JONES, *on behalf of himself and all others  
similarly situated,*

Plaintiff,

-v-

CRWW, INC.,

Defendant.

23 Civ. 6141 (PAE) (SLC)

OPINION & ORDER

PAUL A. ENGELMAYER, District Judge:

On July 17, 2023, plaintiff Damon Jones (“Jones”) brought this action against defendant CRWW, Inc. (“CRWW”) under the Americans with Disabilities Act (“ADA”), the New York State Human Rights Law (“NYSHRL”), and the New York City Human Rights Law (“NYCHRL”). Dkt. 1 (“Compl.”) ¶¶ 53–111. Jones alleges that CRWW’s website is not “equally accessible to blind and visually-impaired customers.” *Id.* ¶ 11. On July 18, 2023, the Court referred this case to the Honorable Sarah L. Cave, United States Magistrate Judge, for general pretrial purposes. Dkt. 5.

On August 2, 2023, Jones filed proof of service on CRWW. Dkt. 6. CRWW failed to respond to the complaint or otherwise appear in this action.

On August 23, 2023, Judge Cave issued an order directing Jones to request a certificate of default from the Clerk of Court by August 30, 2023, and to file a motion for default judgment by September 13, 2023. Jones has neither requested a certificate of default nor filed a motion for a default judgment.

On August 31, 2023, Judge Cave issued an order directing Jones to show cause why this case should not be dismissed for failure to prosecute under Federal Rule of Civil Procedure

41(b). Dkt. 8. That order instructed Jones to respond by affidavit or declaration by September 14, 2023. *Id.* at 1. Jones has not since contacted the Court in any way.

Before the Court is Judge Cave's September 15, 2023 Report and Recommendation, recommending that the Court dismiss this action without prejudice for failure to prosecute, pursuant to Rule 41(b). Dkt. 8 ("Report"). Dominguez has not objected or otherwise responded to the Report. The Court incorporates by reference the summary of the facts provided therein. For the following reasons, the Court adopts this recommendation.

### DISCUSSION

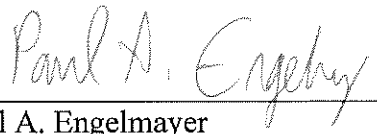
In reviewing a Report and Recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "To accept those portions of the report to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." *Ruiz v. Citibank, N.A.*, No. 10 Civ. 5950 (KPF), 2014 WL 4635575, at \*2 (S.D.N.Y. Aug. 19, 2014) (quoting *King v. Greiner*, No. 02 Civ. 5810 (DLC), 2009 WL 2001439, at \*4 (S.D.N.Y. July 8, 2009)); *see also, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

As no party has submitted objections to the Report, review for clear error is appropriate. Careful review of Judge Aaron's thorough and well-reasoned Report reveals no facial error in its conclusions; the Report is therefore adopted in its entirety. Because the Report explicitly states that "failure to object within fourteen (14) days will result in a waiver of objections and will preclude appellate review," Report at 4, the parties' failure to object operates as a waiver of appellate review. *See Caidor v. Onondaga Cty.*, 517 F.3d 601, 604 (2d Cir. 2008) (citing *Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam)).

**CONCLUSION**

For the foregoing reasons, the Court accepts and adopts Judge Cave's Report in its entirety. The Court thus dismisses this action, without prejudice, for failure to prosecute. The Clerk of Court is respectfully directed to close this case.

SO ORDERED.

  
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Paul A. Engelmayer  
United States District Judge

Dated: October 2, 2023  
New York, New York